



In The Matter Of:

**State of Delaware Department of
Natural Resources and
Environmental Control Division of
Soil and Water Conservation**

Kitts Hummock Drainage Concerns Meeting

May 28, 2009

Wilcox _ Fetzer, Ltd.
Phone: 302-655-0477
Fax: 302-655-0497
Email: depos@wilfet.com
Internet: www.wilfet.com

DELAWARE DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL
DIVISION OF SOIL & WATER CONSERVATION

In Re: KITTS HUMMOCK DRAINAGE)
 CONCERNS MEETING)

FOP Lodge Number Three
1584 Kitts Hummock Road
Dover, Delaware

Thursday, May 28, 2009
6:00 p.m.

WILCOX & FETZER
1330 King Street - Wilmington, Delaware 19801
(302) 655-0477
www.wilfet.com

1 MR. PIORKO: First off, I'm Frank
2 Piorko. I'm the administrator for the drainage
3 and storm water section of DNREC and the Division
4 of Soil & Water Conservation.

5 Bob Enright has been asking folks to
6 sign in when they come in, so if you have missed
7 that opportunity, please do so, so we know who is
8 here this evening.

9 We would also like to recognize and
10 welcome our elected officials from the area. We
11 have Senator Bushweller, Representative Bennett,
12 and Levy Court Commissioner Angel with us this
13 evening. Thank you, gentlemen, for taking time
14 out of your schedule to be with us.

15 Our Division Director Robert Baldwin
16 is here. And Soil & Water folks, raise your
17 hands. Lots of staff back there with expertise
18 to share in the discussion.

19 What I would like to do this evening
20 is to accomplish a couple of things. First is to
21 get the electronic gear working. There we go.

22 The purpose of our meeting tonight is
23 to discuss the drainage and some flooding-related
24 issues that we are hoping that you can share with

1 us, some of your experiences, some of your
2 observations, and we are looking at this evening
3 as a data collection event so that we can get
4 information from you that will help us with a
5 path forward to some possible solutions.

6 The lady to my right is taking notes
7 this evening in a fashion that I certainly can't
8 do myself, nor would I trust Bob to take
9 shorthand, so that's the reason why we are having
10 this evening recorded. It is not a legal
11 proceeding. There is no formality to it other
12 than the appearance of somebody that's writing
13 down every single word and coma that's uttered.
14 So we want to make sure that we get it right when
15 we go back six months from now and take a look at
16 what we are discussing this evening.

17 I'm going to give just a little bit
18 of an overview. Some of you that may have been
19 with us for the public hearing a week or so ago,
20 you may have seen a little bit of what we are
21 going to talk about tonight as far as an
22 overview.

23 Then we want to spend the rest of the
24 evening that we have, as much time as we have, we

1 have I think the room until 8:00 o'clock or so,
2 listening to what you have to say and hopefully
3 informing ourselves about the issues we are
4 trying to help you with.

5 So we are going to give you just a
6 couple of rules. We ask folks to speak, please,
7 because we are trying to take notes and we can
8 get a little bit loud in here, one person
9 speaking at a time usually works best.

10 We certainly respect everybody's
11 opinion. We hope that everyone will do so as
12 well.

13 We are here to help, and we are here
14 to listen, and we hope we accomplish that this
15 evening. We don't have the answers tonight.
16 What we are hoping for is to get a dialogue
17 established so that we get some information from
18 you all that will help us develop some better
19 answers to some of the issues that concern you.

20 And the last rule is no fruit. I'm
21 allergic to tomatoes.

22 So since we are having this recorded
23 we will concede everyone's best behavior tonight.

24 So a little bit of history about

1 involvement from the Division of Soil & Water
2 Conservation and other divisions who may be here
3 tonight. I see Mr. Meredith is here from Fish &
4 Wildlife.

5 In 2003 we assisted the Kitts Hummock
6 Improvement Association in establishing a tide
7 gate structure at the end of South Bay Drive, and
8 we conferred the maintenance responsible for the
9 tide gate structure to the Kitts Hummock
10 Improvement Association.

11 Now, South Bay Drive ditch, now on
12 the Thompson property, was cleaned out when the
13 structure was installed back in 2003. And the
14 tide gate was set to close at an elevation above
15 the normal high tide by the permit conditions,
16 and the intent of the structure is to allow water
17 out during low tide and water in during normal
18 high tide. The structure is set to close during
19 storm surges and above normal high tides, and the
20 result of that is temporarily trapping some water
21 inland, which we know is one of the concerns.

22 The ditches have become silted over
23 time due in part to storm impacts. The May '08
24 nor'easter storm flooded the area and deposited

1 debris, trash and additional silt in the ditches.

2 Some of you were at a community
3 meeting that was held up at our DNERRs Research
4 Center, St. Jones Reserve, in the summer of '08.
5 There we discussed some of the issues.

6 We had a Soil & Water Conservation
7 and Fish & Wildlife gang out there to work with
8 our prisoner crews to remove some trash and
9 debris subsequent to those storm events.

10 And we started working on a plan to
11 develop and determine survey needs, which we got
12 permission from the Thompsons to do some survey
13 work along the ditches.

14 And we filed a permit application,
15 submitted it in December, to clean out the
16 easterly most ditch, the South Bay Drive ditch.
17 Some of you are aware that we had some folks that
18 submitted comments. We had a public hearing on
19 that project. The hearing was scheduled and held
20 on May 6th, and the outcome of the hearing we are
21 waiting for our Hearing Officer to determine. So
22 we don't know as of yet what the disposition of
23 that particular project is until we get the
24 Hearing Officer's report. We hope that it is

1 favorable.

2 Some of the legislators, including
3 the ones that you see in the room today listening
4 to your concerns, asked us to get together with
5 them, and we had a meeting first with the
6 legislators and some of the program folks, many
7 of which you see represented here tonight, and we
8 met with the legislators to talk about community
9 concerns. We then met internally with some of
10 our staff to determine what we thought could be
11 done in the short-term and what needed further
12 investigation in the long-term.

13 And we tried to figure out what
14 questions needed to be asked in order to get the
15 answers that we would hope would help us craft
16 some improvements to the water management issues.

17 Our strategy from the DNREC drainage
18 program perspective is to concentrate on local
19 drainage issues first associated with rainfall
20 events and not associated with storm-related
21 flooding.

22 Now, that's not to say we are not
23 interested in the storm-related flooding. Our
24 first concern was to get a survey, look at the

1 ditch profiles in relation to the property
2 elevations to see what would drain if the ditches
3 were cleaned out, and try to establish a baseline
4 for local drainage.

5 The other issues certainly compound
6 the ability to make improvements with local
7 drainage improvements, and they will be
8 investigated. But in the short-term we are
9 looking at doing the things that we think are the
10 least costly and the things can be done and
11 accomplished fairly quickly.

12 We have conducted a survey along
13 Kitts Hummock Road. We have surveyed the ditches
14 south with DNREC survey crew.

15 And Bob, I don't know if this is a
16 good time to talk about the survey permission
17 slips that we have here?

18 MR. ENRIGHT: Any time you like.

19 MR. PIORKO: Bring it up? We do
20 anticipate some additional survey needs, whether
21 they are going to be going onto properties to
22 survey culverts, survey low areas in the
23 property, to survey some benchmarks for surveys
24 in and around the structures themselves.

1 In order to make our job a little bit
2 easier we have brought some permission to survey
3 forms with us tonight, and being as we have a
4 good number of you here this evening, if Bob will
5 tell you where they are, at some point before you
6 leave --

7 MR. ENRIGHT: They are right here.

8 MR. PIORKO: -- if you are so
9 inclined, we have the forms there where, if you
10 will sign those, it will keep us from having to
11 contact everyone individually to request a
12 permission to survey. And that's all this is.

13 MR. ENRIGHT: It is not much of a
14 form. It is just asking permission, and I
15 everybody's name alphabetically and a signature
16 line.

17 MR. COSTELLO: Is this just the
18 people that the ditch is on the property of?

19 MR. PIORKO: Bob, is the list
20 inclusive of everyone in Kitts?

21 MR. ENRIGHT: Say again, please.

22 MR. PIORKO: The list is inclusive of
23 everyone in the community?

24 MR. ENRIGHT: Yes.

1 MR. PIORKO: Not just the folks on
2 the ditch, along the road and other places where
3 we might need to survey.

4 MR. ENRIGHT: I don't know if you
5 have all looked at the map. Every parcel on
6 there has a number. The numbers are associated
7 with the names also.

8 MR. PIORKO: What a great segue, Bob,
9 because we just updated the property information,
10 the parcel information, so we hope we have got
11 the most update connection between what the
12 county has and our tax parcel information. So if
13 anybody sees anything that is wrong. I think we
14 did pretty well. We sent a notice out to
15 everyone in the community. We only got I think
16 two or three back. So we are doing okay there.

17 We have looked at the surveys. It
18 has been plotted. We have looked at the profiles
19 along the ditches. We are going to try to relate
20 some of those with some information you give us
21 and also some additional survey.

22 And we went out a couple of times,
23 but most notably where we did some photo
24 documentation on April 15th, we wanted to see

1 what the conditions were with about an inch and a
2 half of rainfall in 24 hours, and it was during a
3 low tide event.

4 We didn't want to see the community
5 at the worst possible weather conditions. We
6 wanted to observe it during a fairly, you know,
7 normal event. So that was helpful to us as we
8 went and drove around and looked at some
9 pictures, including some areas upstream of pipe
10 culverts and immediately downstream of pipe
11 culverts in the road, and we did this in a couple
12 locations to give ourselves a perspective of just
13 what was happening upstream and at the outlet end
14 of some of the road culverts.

15 What we think we know about the
16 information we have gathered so far, and there
17 are folks in this room with a legacy of
18 information about Kitts that may prove some of
19 this wrong, but we think that we know the ditches
20 are fairly flat and are influenced by both
21 groundwater and tidal action, that we don't think
22 that the road culvert pipes are necessarily an
23 impediment to improving the drainage in the
24 community.

1 A local effort to improve drainage
2 may not have an impact on the effect of storm
3 surges, we think we know that.

4 The Thompsons will have to have some
5 more information and assurances for any
6 additional drainage improvements on their
7 property, so that they can be assured that there
8 is not going to be an impact to their pond.

9 Remember that the areas we are
10 talking about working on so far aren't under any
11 kind of public easement except for the culverts
12 under the road. Everything else is private
13 property, except where the tide gate structure
14 is.

15 The solution to local problems may
16 involve the grading around the lots or the
17 elevations of the lots or the structures
18 themselves. And further discussion of the impact
19 of storm surges, coastal breaches, sand ditch and
20 the effect of Shevak marsh on the community,
21 drainage and flooding will require fairly
22 extensive elevation and we are prepared to do
23 that in part in a way we will talk about a little
24 bit later this evening.

1 Realize that there are small pieces
2 to this problem that we would like to
3 investigate, and there are larger pieces as well
4 which are going to take a little bit more time.

5 Our next steps right now as far as
6 cleaning out South Bay Drive ditch is waiting for
7 the results of the public hearing and the Hearing
8 Officer's determination on that particular
9 permit. Pending the outcome of the hearing, if
10 it is favorable, we will proceed to clean out the
11 South Bay Drive ditch.

12 We are going to work with our DNREC
13 coastal program folks to gather some needed water
14 level monitoring information and possible
15 modeling. We are going to talk about that in
16 just a moment. We will ask Bob to tell you what
17 that means.

18 We hope to process the community
19 meeting information with survey data, monitoring
20 information, and begin to get a much clearer
21 picture of what is happening out there at a local
22 level, determine if additional ditch clean-out or
23 other maintenance type operations will have a
24 meaningful benefit to solving some of the

1 drainage problems.

2 If a decision is made to move
3 forward, we envision possible either consultant
4 assistance from in-house or externally to get us
5 to the point where we are looking at the entire
6 big picture.

7 And also, the coastal issues in the
8 path forward will be something that will be
9 discussed within our division, with our Coastal
10 folks and our Shoreline & Waterway folks, and it
11 is not something that, as I said earlier, we are
12 not going to have the answers this evening. It
13 is a big problem. It is a complex issue. And we
14 are going to try to take it one step at a time.

15 If you can all see the map there that
16 I put up there with the little blue stars. Bob,
17 if I could ask for your help for a moment. Bob
18 Scarborough is a scientist with our research
19 reserve out at DNERRs, one of your neighbors, and
20 works for the Delaware coastal program, and Dr.
21 Scarborough is going to talk a little bit about
22 part of the help he is going to offer us with
23 doing some monitoring out there.

24 DR. SCARBOROUGH: Okay. Good

1 evening.

2 Like Frank said, one of the questions
3 was the relationship with the ditches and the
4 ponds on I guess the Thompson property and the
5 Shevak pond, and how that relates to the tide and
6 the groundwater and everything else.

7 So what we are going to do is put out
8 some water level recorders. They are little
9 small unit, about this long. These will go at
10 the locations marked there. We will put in a
11 fence post or something down in the ground, make
12 it fairly secure, put a PVC pipe and put these
13 down the pipes. So we have a constant elevation
14 for all of them.

15 MR. NAGLE: My name is Robert Nagle.

16 MR. PIORKO: Excuse me, Mr. Nagle. I
17 would like to ask Bob to finish and then we are
18 going to open it up for comments, only to assist
19 us in the recording and our efforts there. So,
20 Bob, if you would finish, please.

21 DR. SCARBOROUGH: They will be all
22 surveyed in so they will have constant elevation,
23 and they will take recordings at the same
24 interval that the tide station does at Bowers, so

1 we will have continuous set of data.

2 And is there a pointer, Frank?

3 (Discussion off the record.)

4 DR. SCARBOROUGH: We are going to put
5 one in the pond here, one in the ditch along
6 here. There is also one we are going to put in
7 the impoundment at Ted Harvey.

8 I don't think you got that one,
9 Frank.

10 Just to show if there is any
11 relationship between the water level and
12 impoundment and the marsh and the pond there.

13 Then also look at the north side, one
14 in this waterway and one up in here, to see what
15 is coming in from the north more on the storm
16 surges, is the water coming in from the north, is
17 it coming in from the south, and look at these
18 ditches and try and find the inner-relationship
19 between all the surface water levels.

20 We also at the reserve, about a mile
21 down the road here we have a weather station, we
22 collect rainfall data, so we will have all that
23 information for us.

24 And I'm trying to find if anybody has

1 an old shallow well that we could measure
2 groundwater level with. If not, maybe we could
3 have Delaware Geological Survey, DGS, and that
4 way we would also get that information to see how
5 the surface water level and the marsh is
6 corresponding to the groundwater level.

7 It will probably take at least three
8 months, six months, hopefully three months will
9 give us a good start of data, maybe get a couple
10 storms.

11 If we would have done this last week
12 we could have gotten some good data a couple days
13 ago. It's just to get an idea of what is coming
14 in from the bay, rainfall, and where the water is
15 draining and if there is any impediments to
16 drainage.

17 Pretty much. Once we have that data,
18 possibly looking at doing some surface modeling
19 and see if we can characterize the area a little
20 better.

21 Questions?

22 MR. NAGLE: Again, my name is Robert
23 Nagle. 316 North Bay Drive.

24 And my question, maybe you answered

1 it, you have one, two, three, four, five, six
2 monitoring, and nothing inside the impoundment.
3 You said you were going to put one in the
4 impoundment?

5 DR. SCARBOROUGH: Yes.

6 MR. NAGLE: That's definite?

7 DR. SCARBOROUGH: Yes.

8 MR. NAGLE: My second question is,
9 you show one, two, three monitors on the ditch,
10 and which is apparently not the ditch that's
11 going to be cleaned out.

12 DR. SCARBOROUGH: Yes. Again, I
13 think one of these is supposed to be over on that
14 ditch.

15 MR. PIORKO: Okay.

16 A VOICE: I kind of pointed them out
17 to Frank the other day.

18 MR. PIORKO: Folks, we can't get your
19 comments unless we do this one at a time. So I
20 understand Mr. Nagle's concern, are we monitoring
21 in the right place.

22 MR. NAGLE: The information on that
23 map is incorrect at this time?

24 DR. SCARBOROUGH: Yes.

1 MR. PIORKO: Correct.

2 MR. NAGLE: Thank you.

3 MR. PIORKO: Can we have your name.

4 MR. DUFFY: I'm Mike Duffy, 3028
5 Kitts Hummock. And my question is: How long
6 will it take after you are done your survey and
7 modeling to start cutting the earth, working on
8 it, in your estimation?

9 DR. SCARBOROUGH: It will probably
10 take three months of data collection to get
11 enough data to put in the model. Maybe a month
12 or so to get the model calibrated. And I will
13 give the information to Frank.

14 Now, this is just preliminary. I'm
15 not a PE. I'm not going to certify anything. It
16 is going to give a general idea. It might say,
17 oh, we need to study this more, hire an engineer
18 to come in and do it. That's up to Frank. I'm
19 just collecting the data, getting the baseline of
20 where we think some issues are as a head start.

21 MR. DUFFY: Thank you.

22 MR. PIORKO: We do have engineers
23 working for us. And Steve Wright is our division
24 engineer, he is here tonight, and other engineers

1 that work in the division. Depending on the
2 complexity of the information and how we then
3 take that and determine an engineering design and
4 possible solution to some of the drainage
5 improvement that we think might be necessary, you
6 know, we will have to determine that when we see
7 the information.

8 From our standpoint in the most basic
9 form, I think what we are trying to do from the
10 onset is to determine, number one, if we clean
11 out additional ditches, you know, what is going
12 to be the impact on the private property owners
13 whose ditches we are going to have to come in and
14 possibly clean out. We certainly owe that amount
15 of due diligence to those folks.

16 And we also have to have some
17 assurance that, you know, the work that we are
18 going to do will have benefit.

19 Where it gets more complex is when we
20 try to determine the extent of what benefit will
21 be associated with doing what. And that's the
22 part that hopefully will take some collaboration
23 on our end within the division and our other
24 resources at DNREC, and possibly, we've had the

1 support of the legislators, that if we need to
2 and we need to engage some other folks to help us
3 with this, then we will have that support, within
4 certain limits, of course.

5 MR. DUFFY: So you don't have any
6 idea how much time this will take to go over the
7 preliminary studies before you start moving?

8 MR. PIORKO: As Bob said, in terms of
9 the amount of time necessary to select some
10 preliminary information is pretty weather
11 dependent. We have to capture enough storm data
12 to make the evaluation meaningful.

13 How we process that information and,
14 you know, even run some preliminary modeling, you
15 know, I don't know if it is fair to pin Bob down
16 on a time on that yet until we see exactly what
17 we collect.

18 But, you know, we are not going to
19 take the information and set it aside and not do
20 anything with it. We want to move forward with
21 this, you know, fairly aggressively as we get
22 information.

23 If that answers your question, Mr.
24 Duffy. I don't want to be evasive, but I don't

1 want to give you a time either.

2 MR. CARTER: We will have preliminary
3 results, something conservatively, within six to
4 nine months. Other than that, that's a
5 conservative date. I hope we can go faster, but
6 I'm comfortable within those time frames.

7 MR. ENRIGHT: She didn't hear
8 everything you said, Dave. You are going to have
9 to stand up and state your name, please.

10 MR. CARTER: Dave Carter with Soil &
11 Water. I think, just being conservative, we
12 should have some preliminary results within six
13 to nine months, enough to tell us if we have
14 reasons to question whether or not the current
15 plan would work or not work, and we need more
16 details of it, what the other issues might be.

17 We should have some, much better feel
18 within that period. Even an interim report,
19 something will give you a much clearer idea of
20 how close we are or how far we are from actually
21 having a solution.

22 MR. PIORKO: This lady here would
23 like to speak.

24 MS. LORD: My name is Cheryl Lord,

1 3104 Kitts Hummock Road.

2 I think you may have answered my
3 question partially. I just want to make sure it
4 is clear. You are discussing the ditch that was
5 going to be cleaned out, that's what the
6 additional data is that you are collecting to see
7 whether you want to continue with that project or
8 not?

9 MR. PIORKO: No. And apparently I
10 wasn't clear, so I apologize.

11 We want to make sure everyone
12 understands. We are anticipating cleaning out
13 the South Bay ditch right now, the easterly-most
14 ditch that drains down to the tide gate
15 structure. That's the ditch clean-out project
16 that we requested the permit for. And if we get
17 the permit for that project we intend to go ahead
18 and move forward with that clean-out.

19 The monitoring of the water levels in
20 the marsh areas and relative to the ditch is
21 really for the next inside ditch, the one that
22 runs adjacent to the Thompsons' pond. And the
23 reason why we think that that is critical to get
24 that information on that ditch is because

1 whatever we do in that ditch may affect the water
2 levels in the Thompsons' pond, especially if we
3 are anticipating bringing some of the water north
4 of Kitts Hummock Road through that pond and out
5 again into that ditch.

6 So we want to establish a baseline
7 for a relationship there with water levels,
8 taking into account what we are seeing from the
9 northernmost area all the way down to the Ted
10 Harvey impoundment.

11 Now, that is a little bit separate
12 than us being able to come in and just clean out
13 the South Bay Drive ditch. So I apologize if
14 that was confusing to anyone.

15 MR. MARIANI: Yes. My name is Andy
16 Mariani. I live on 112 North Bay Drive.

17 You keep bringing up this Thompson
18 permission. The ditch has been there before the
19 Thompsons owned it. They inherited that land.
20 And wasn't there easements to have them ditches
21 put in there in the first place?

22 Because we all know, if you clean
23 them ditches out, that pond will go back to the
24 same size it was 50 years ago. So I don't

1 understand why the big concern is, getting
2 permission to get a ditch cleaned out that's been
3 there for 50 years. Because if we keep waiting
4 for you guys to do your surveys, we are going to
5 have water in our houses.

6 MR. PIORKO: Can we get the lights
7 up, Bob?

8 MR. DUFFY: Nobody even lives there.
9 It is just a duck pond.

10 MR. MARIANI: That pond was about the
11 size of this room when I was a kid.

12 MR. DUFFY: Right. And you impounded
13 and DNREC impounded --

14 MR. PIORKO: One at a time folks.
15 I'm going to answer this gentleman's question.
16 The reason why we need permission to do anything
17 on that property that's owned by the Thompsons is
18 because it is owned by the Thompsons.

19 MR. MARIANI: Yes, but wasn't there
20 an easement to put the ditches there?

21 MR. PIORKO: There are no
22 easements --

23 MR. MARIANI: How did the ditches get
24 there?

1 MR. PIORKO: -- on any of these
2 ditches.

3 MR. MARIANI: How did it get there?

4 MR. PIORKO: We can go back and
5 explore the history of when they were being
6 maintained as mosquito control ditches and
7 probably prior to that, you know, to serve
8 another function.

9 But agencies that had different
10 reasons for going in and maintaining the
11 ditches -- I'm trying not to pull words out
12 there. Bill is going to have to explain later.

13 MR. MARIANI: You never got
14 permission to do that?

15 MR. PIORKO: Permission and having an
16 easement is two different things. We got
17 permission from the Thompsons to clean out the
18 South Bay Drive ditch, the ditch that we are
19 proposing to clean out along here. We got
20 permission from the Thompsons to clean that out.
21 That's also their property.

22 And as far as I can tell, because our
23 discussions with the Thompsons have been with Bob
24 Enright, not myself personally. But Bob has

1 indicated that the Thompsons are not objecting
2 necessarily to the idea of coming in and cleaning
3 out this ditch. They would like to know whether
4 or not there is a plan for doing anything with
5 bringing any of this water down, perhaps this
6 ditch into their pond and out, down here, so that
7 this would be cleaned out, this might be cleaned
8 out, water might be directed in here, providing a
9 better outlet.

10 MR. ENRIGHT: Frank, you need to move
11 to the left. To our left.

12 MR. PIORKO: So it is not, in our
13 case, it is not just a matter of wanting to know
14 whether we can come in and clean out this ditch
15 too. We want to know what possibilities exist
16 for improving the local drainage in the populated
17 area of the community by bringing it down through
18 this network of drainage areas. And that's
19 something that we need some information for
20 before we can go to the private land owner and
21 ask him to let us come in and do that work.
22 Okay. Let me ask her to --

23 MS. KEISER: The CCC boys dug these
24 ditches.

1 MR. PIORKO: Your name, please,
2 ma'am?

3 MS. KEISER: Alice Keiser.

4 MR. PIORKO: Alice Keiser. Mrs.
5 Keiser.

6 MS. KEISER: And the state agreed to
7 maintain these ditches. Now, I have been here
8 all my life, and I'm 88 years old, and so I know
9 what I'm talking about.

10 MR. PIORKO: Okay.

11 MS. KEISER: That's it.

12 MR. PIORKO: Okay. And I don't
13 dispute a word that you say. I wish I had copies
14 of those agreements that allowed us to come in at
15 will and maintain these ditches. I have not seen
16 anything on any deeds, as we talked about at the
17 public hearing, nothing has been, you know, given
18 to me showing us where we have any right to
19 trespass without anyone's permission onto those
20 properties.

21 And, you know, if there is
22 information that, you know, someone can share
23 with us that will help us with a decision or
24 otherwise, I'm open to looking at it.

1 MS. KEISER: Mr. Hughesman owned
2 those, and they are his grandsons that now are
3 controlling it.

4 MR. PIORKO: Okay. And again, I've
5 got nothing to look at that says that we have a
6 legal right to come and, you know, work on the
7 property, as of yet.

8 We have some comments in the back.
9 Could you tell us your name, please.

10 MS. MOFFLER: I'm Linda Moffler, 3010
11 Kitts Hummock Road.

12 And the state dug those ditches in
13 the first place, which I think they had the Army
14 Corps of Engineers come in. I have been coming
15 down here all my life. I've lived here for 33
16 years. And it was my understanding that the Army
17 Corps of Engineers originally dug those original
18 ditches. And the property was owned by
19 individual, two individual people at the time I
20 believe. Somebody owned the north end, somebody
21 else owned the south end.

22 Wouldn't the state have records of
23 that? And when it was dug, wouldn't they have
24 records of what promises they gave us when those

1 ditches were dug and not put it up to us?

2 MR. PIORKO: Well, you both raise
3 very good points. The points about what has
4 historically been promised, what was the history
5 of the initiation of the ditches, you know, I'm
6 only privy to little bit about what was
7 maintained by the various factions in DNREC. I
8 don't know the historic chain of title for the
9 lands and/or of any easements or record of
10 easements on those lands.

11 If we hear enough information from
12 folks, you know, that that is an important part
13 that perhaps hasn't been researched, to the
14 extent that it needs to be, then maybe that's
15 some additional work that needs to be done.

16 MS. MOFFLER: They were out there,
17 the last time they were out there was only about
18 30 years ago, maybe 33, when I first moved down
19 here, they were out there digging in those
20 ditches, and the last I heard of it they lost the
21 piece of big heavy equipment out there and they
22 stopped the project.

23 But up until that time, as little
24 time as that, up to 30, 33 years ago, they were

1 maintaining those ditches.

2 The last two floods we had before
3 this last one, as far as I know, they drained
4 just fine. It wasn't until this last flood when
5 the ditches haven't been maintained for so long a
6 period of time that we had a problem.

7 MR. PIORKO: Thank you. I believe
8 that Dr. Meredith was going to volunteer some
9 information.

10 DR. MEREDITH: I'm Bill Meredith.
11 I'm the administrator for the state mosquito
12 control program.

13 And the history of almost all of
14 these, what we call parallel blue ditches around
15 the state, they were initially constructed from
16 about 1933 to '37, and it is widely variable in
17 terms of the property permission that was granted
18 or sought in that era. A lot of times it was
19 done without having to go through and get
20 permission. Okay. These were wastelands.
21 That's the way people looked at wetlands back
22 then.

23 In other situations, particularly
24 where you had hunting interests, it was more

1 difficult to work on these properties, the CCC
2 boys, without getting permission.

3 What happened, though, in the
4 mid-1960s was essentially the state had a change
5 of heart about maintaining these ditches. The
6 mosquito control value really isn't what you
7 think it might be. The state also realized that
8 you shouldn't just be draining marshes.

9 It got more complicated in the early
10 1970s when there was a whole overlay of new state
11 regulations with the State Wetlands Act and also
12 with the Federal Clean Water Act, where now the
13 state really doesn't have the ability to go in
14 there and clean anything without getting
15 permission from the Corps of Engineers through a
16 permitting process. And we are attempting to do
17 that right now just for South Bay ditch. And
18 there are also three other federal advisory
19 agencies that advice the corps.

20 We are actually more responsive and
21 more accountable to the federal program now than
22 we are to the state program.

23 Under the State Wetlands Act of 1973,
24 mosquito control is exempt from having to get a

1 state permit, but we need federal permits, so the
2 game has changed. No matter what your old
3 agreements may have been with land owners, no
4 matter what the state used to do, okay, the
5 federal government now has the trump card and we
6 have to work with that.

7 MR. MARIANI: Who do we sue for
8 damages then? The Thompsons or DNREC? Because
9 you are not allowed to push water onto my
10 property. No land owner is allowed to push water
11 on another person's property. It is against the
12 law. Right?

13 A VOICE: Happens all the time.

14 MR. PIORKO: Can we hear from you.

15 MS. SATTERFIELD: Judy Satterfield,
16 2123 Kitts Hummock Road. The ditch that we
17 originally dug in front of our property, which
18 was my parents, is fairly deep. My neighbor has
19 done, dug a huge ditch to the west of me. There
20 is a culvert that comes out from the wildlife
21 refuge, just slightly west of my property. That
22 has been, that ditch on that side has been plowed
23 in. Part of the culvert is laying aside of the
24 road. Where the ditch that from my house used to

1 drain across the road into the lower lying area,
2 and just, it hasn't done it in ages. I've never
3 had water laying in my property like I have now.

4 MR. PIORKO: Bob, do you know what
5 culvert she is referring to?

6 MR. ENRIGHT: No. We will have to
7 look into that.

8 MR. PIORKO: We will go back, we will
9 look at the notes, we will look at the property
10 map, and you have given us your property number,
11 and we will look at the location of that and we
12 will certainly look into that. That's exactly
13 the type of feedback we are hoping folks can give
14 us tonight.

15 Let me ask for this lady's comment,
16 and then we will come back to you. Now, if you
17 could please, again, give us your name.

18 MS. EGAN: I'm Mary Egan, I'm 74
19 North Bay. I'm just wondering, you had
20 mentioned, do you have the permit for your
21 proposed South Bay ditch clean-out? Did you get
22 that permit?

23 MR. PIORKO: Not yet. No. If I
24 didn't make that clear, we are still waiting for

1 the Hearing Officer's recommendations for the
2 permit to clean out South Bay Drive ditch.

3 MS. EGAN: How long does that take
4 normally? Is it that hard to get a permit? I
5 mean, when you are kind of desperate.

6 MR. PIORKO: Actually, we have got
7 federal permit coverage under a nationwide
8 permit, so this is with the state subaqueous
9 lands and wetlands permit, so this is not federal
10 permit. This is our own folks at DNREC.

11 MS. EGAN: So it should be soon then?

12 MR. PIORKO: Well, I'm not going to
13 define "soon." I did ask the Hearing Officer
14 today if he could give me an idea of the
15 schedule, and he said anything I told you right
16 now would be misleading since, you know, I don't
17 know where you are in the queue. So his --

18 MS. EGAN: Maybe he should be here.

19 MR. PIORKO: Well, I think he would
20 tell you exactly what I told you.

21 MS. EGAN: Maybe we could tell him
22 something too.

23 MR. PIORKO: I think he heard, I
24 think he heard a lot of feedback at the hearing.

1 And he is going to make his determination as to
2 whether or not, you know, the permit will be
3 granted. And that determination is also subject
4 to appeal. So we hope that doesn't happen.

5 Can I hear from you, and then we will
6 go to the back of the room again.

7 MR. CANNAN: Sam Cannan, 200 North
8 Bay. Two things. You just said, and correct me
9 if I'm wrong, that you had a blanket federal
10 permit to do this, essentially.

11 MR. PIORKO: No, that's not correct.

12 MR. CANNAN: What exactly did you say
13 then?

14 MR. PIORKO: Okay. We have
15 permission to do this maintenance clean-out under
16 a federal nationwide permit.

17 MR. CANNAN: So you have a permit,
18 essentially.

19 MR. PIORKO: From the federal
20 government, from the U.S. Army Corps of
21 Engineers.

22 MR. CANNAN: He just said, the
23 gentleman who just spoke said that the state was
24 not the issue, that the feds were. He just said

1 that not two minutes ago.

2 DR. MEREDITH: Sir, again, let me
3 clarify that. The federal overlay applies to
4 altering the wetlands. Okay. We can't do that
5 without a permit from the federal government. We
6 are exempt for mosquito control purposes from the
7 State Wetlands Act. This is not a mosquito
8 control purpose, cleaning out this ditch. It is
9 the purpose of drainage, which requires a state
10 permit, and that's what Frank is getting at.

11 If it was purely mosquito control we
12 wouldn't need a state permit but we would still
13 need a federal permit.

14 MR. PIORKO: Right. And if I can ask
15 Matt Grabowski, is on our staff, Matt is one of
16 our section program managers that deals primarily
17 with permitting or that's one of his duties, and,
18 Matt, if you could just explain what type of
19 federal permit we would be operating under for
20 this particular ditch, maybe that would clear
21 that up.

22 MR. GRABOWSKI: Sure, Frank. Matt
23 Grabowski, Division of Soil & Water.

24 Yeah, I'm the one that's processed or

1 developed the permit application that was
2 submitted to the DNREC Subaqueous Lands Section.
3 To clear up the confusion with the two, between
4 the state and the federal permit, as Frank did in
5 the overview, we dug this ditch out in 2003, and
6 they went through a very lengthy, what they call
7 an individual permit process with the Army Corps
8 of Engineers, which is the federal side of
9 things. Get the project done.

10 Since we are digging out pretty much
11 exactly the same ditch that we dug out three
12 years ago, I mean eight -- six, sorry.

13 MR. PIORKO: 2003, right.

14 MR. GRABOWSKI: A couple years ago,
15 we can use what is called Nationwide Permit 3A,
16 which is for maintenance of a previously
17 authorized fill or activity, which this activity
18 was authorized in 2003 under the federal permit.
19 So it is much easier, for federal permitting
20 process, the second time around than it was the
21 first time. So that's kind of why we are dealing
22 with the DNREC permit this time.

23 A VOICE: So the hold-up is DNREC?

24 MR. CANNAN: Excuse me. I had a

1 second question.

2 MR. PIORKO: Yes, sir.

3 MR. CANNAN: Some months ago, and I
4 cannot remember the gentleman's name, possibly
5 Mike may remember, but there was a gentleman that
6 presented himself who was supposedly a consultant
7 for Kitts Hummock -- a consultant for DNREC doing
8 exactly what you said you are now starting to do,
9 this modeling, that he has been doing for a
10 number of months. Do you remember this
11 gentleman?

12 MR. COSTELLO: His name is Anderson.
13 But he is looking at strictly the beach.

14 MR. CANNAN: The beach is the concern
15 here. They are talking about ditches. And from
16 my perspective, that's exactly what they want us
17 to talk about, because the beach is the problem,
18 not the ditch.

19 MR. PIORKO: Okay. I don't want to
20 cut you off relative to the beach discussion, but
21 tonight we are talking about flooding and
22 drainage concerns from the populated area of
23 Kitts Hummock. It is not totally disconnected,
24 of course, from our discussion of how the water

1 is getting into the community and flowing through
2 the community.

3 But I think the folks that you are
4 referring to who are engaged by our Shoreline &
5 Waterway folks, PB & J, PBS & J, are working
6 on -- when I start to trip up, Mike, correct
7 me -- but they are working on looking at the
8 beach portion of the bay communities, all up and
9 down the bay side, so which is quite different
10 than what we are looking at, which is the
11 internal flow of the water, and so far being able
12 to do that internally, with relatively few
13 expenditures to date, which may or may not be
14 held true in the future.

15 But as long as we are able to look at
16 this with our own resources for the time being,
17 we are happy to do that.

18 Yes, ma'am.

19 MS. MOFFLER: I think you may have
20 gotten past my comment because I had to wait for
21 awhile.

22 MR. PIORKO: Sorry about that.

23 MS. MOFFLER: This gentleman --
24 that's okay. When this gentleman here commented

1 on the ditches, he said something about draining
2 the marshland. Those ditches weren't originally
3 -- they were tidal ditches originally. They were
4 all hooked up to the sluice gate, and when the
5 tide came in, they filled up, and when the tide
6 went out, they emptied out.

7 The sluice gate was almost always
8 opened, and that way it controlled the mosquitoes
9 without spraying because between draining the
10 water and movement, it kept them from laying
11 eggs, and the fish would come in and would eat
12 the eggs that were left there. So it wasn't a
13 drainage ditch. They were never drainage
14 ditches. They were tidal ditches.

15 MR. PIORKO: When you speak of the
16 sluice gate you are speaking of which structure?

17 MS. MOFFLER: It is -- well, it used
18 to be south, on the south end of the beach.
19 There was a gate.

20 MR. PIORKO: The old one.

21 MS. MOFFLER: There was a gate, a
22 water gate that opened up and closed up. And
23 they would open it -- it was open most of the
24 time.

1 MR. DUFFY: It is not there anymore.

2 MS. MOFFLER: It is not there
3 anymore. But originally there was a gate there,
4 and they were tidal ditches, and when the tide
5 came in, the ditches would fill up. When the
6 tide went out, the ditches would empty out.

7 MR. PIORKO: I'm guessing you are
8 describing what is similar to the way that the
9 tide gate at the bottom of South Bay Drive ditch
10 is supposed to function as well, allowing the
11 water in and allowing that tidal exchange.

12 MS. MOFFLER: It is a different kind
13 of gate. In my observation it is a different
14 kind of gate.

15 MR. PIORKO: All right. Appreciate
16 that.

17 MS. MOFFLER: We had a big long
18 pipe --

19 MR. MARIANI: There was one north and
20 south.

21 MS. MOFFLER: -- that used to go out
22 into the bay for those ditches to drain into at
23 one time.

24 MR. PIORKO: All right. Thank you.

1 Mr. Nagle. And then I'll go back to you.

2 MR. NAGLE: Okay. Before we get away
3 from Dr. --

4 DR. SCARBOROUGH: Bob Scarborough.

5 MR. NAGLE: -- you are going to do
6 the monitoring of the water levels?

7 DR. SCARBOROUGH: Yes.

8 MR. NAGLE: Inside and outside the
9 impoundment and the various ponds?

10 DR. SCARBOROUGH: Yes.

11 MR. NAGLE: You say this will take
12 three to four months, and you have only mentioned
13 you want to watch what happens during storm
14 surges, storms, rain events, natural events,
15 correct?

16 DR. SCARBOROUGH: We will be
17 recording data every six minutes because that's
18 the interval at Bowers. It is continuous.

19 MR. NAGLE: But you are talking about
20 monitoring natural events. And it has been my
21 observation that as you fill the impoundment, you
22 fill this marsh as well, because you have seepage
23 through the impoundment, the north impoundment on
24 Ted Harvey.

1 And so I would like to make a
2 suggestion to you that as you drain the water out
3 of the impoundment that you monitor what happens
4 inside these other areas. And I'll guarantee
5 you, you will see the water fall as well.

6 DR. SCARBOROUGH: That's one thing we
7 are looking at. That's why we are putting the
8 one in the impoundment and hopefully long enough
9 to get a change in that water level and see if we
10 can detect it on the outside.

11 MR. NAGLE: But that is something
12 that we don't have to wait for mother nature to
13 do. You don't have to wait for a storm. You can
14 do it by having DNREC or Fish & Wildlife, who
15 always says it is DNREC, and DNREC always says it
16 is Fish & Wildlife, whose ever responsibility
17 that impoundment is, it is causing the level of
18 these floodplains to rise as you raise the level
19 inside that impoundment. You have seepage
20 through it.

21 I have pictures, if you would like to
22 see it. I've been recording it. As you open the
23 weir on the south end of the north impoundment,
24 the water level goes down on the marshes. And it

1 is simple observation.

2 And yet no one here wants to admit,
3 I've asked for it before, but no one wants to do
4 that, you know. What happens when you let the
5 water out of that impoundment, does it affect the
6 marshes?

7 MR. PIORKO: And that's one of the
8 reasons why we are here, is to get the questions
9 posed to us that hopefully we can answer. And
10 before I go to Mr. Duffy again I did want to
11 ask --

12 MR. CARTER: The question will be
13 answered.

14 MR. PIORKO: -- I did want to ask
15 Bill Meredith, just, not to necessarily respond
16 to what the reactions are to any management in
17 the Ted Harvey wildlife area, but if you could
18 just clear up ownership and management of the Ted
19 Harvey wildlife area so that we understand whose
20 role and responsibility it is.

21 DR. MEREDITH: The Ted Harvey
22 wildlife area, folks call Logan Lane,
23 impoundments are managed by the Division of Fish
24 & Wildlife, and we are in DNREC. So it is not

1 DNREC versus Fish & Wildlife. We are part of
2 DNREC.

3 The impoundments are primarily
4 managed as waterfowl habitat, okay, and they have
5 their own management scheme in terms of different
6 water level elevations and tidal exchanges.

7 Secondly, we try to manage water
8 levels in there for mosquito control purposes to
9 cut down on the need for using pesticides. But
10 the real management is done by the wildlife
11 section within the Division of Fish & Wildlife.

12 Mr. Nagle, is it?

13 MR. NAGLE: Yes.

14 DR. MEREDITH: Your observation that
15 maybe things are going on in the open marsh north
16 of the impoundment relative to what is happening
17 to water levels inside the impoundment is
18 something that I hear. Soil & Water is going to
19 look at. It is nothing that the Division of
20 Wildlife looked at. Okay. We really had no
21 reason to expect any type of connection. But
22 that's what this study will do.

23 MR. NAGLE: Okay.

24 MR. PIORKO: Just so we are clear,

1 there isn't a federal involvement there, Bill,
2 with U.S. Fish & Wildlife or anything?

3 DR. MEREDITH: No, no.

4 MR. PIORKO: I think that was a
5 question earlier asked that I wasn't able to
6 answer at the public hearing. So it is managed
7 and owned by DNREC, and it would seem sensible
8 that our own folks will be able to discuss these
9 issues internally and be able to give good
10 answers to folks that have questions about what
11 they see happening out there. So we will make
12 sure we follow up on that.

13 MR. NAGLE: Here is a waterfowl and
14 wetlands synopsis that was given in 1976.

15 DR. MEREDITH: I'm the editor.

16 MR. NAGLE: In it you discuss these
17 impoundments for the exact purposes you were just
18 saying, but you also in it discuss how these are
19 supposed to be maintained, no trees, keep them
20 clear.

21 That's not what is happening out
22 there. You have trees on that whole line of the
23 levee. They are falling over. They are breaking
24 through the levee.

1 DR. MEREDITH: Okay.

2 MR. NAGLE: But that's your own --
3 that's you.

4 DR. MEREDITH: That's not my chapter
5 in there, I'll tell you. The levee maintenance
6 that goes on is conducted by our wildlife
7 section. They'll let phragmites grow on the
8 levees, okay, to help stabilize and keep the
9 levees together. If there are shrubs, that's an
10 appropriate place for the shrubs.

11 MR. NAGLE: Trees?

12 DR. MEREDITH: If the shrubs turn
13 into trees, trees.

14 MR. NAGLE: When the winds blow over
15 the trees and break the levee?

16 DR. MEREDITH: Well, I don't know if
17 they break the levee. They may. We do a lot of
18 levee maintenance, a lot of dike maintenance.

19 MR. NAGLE: Not there.

20 MR. PIORKO: In the interest of time
21 and the spirit of our intention, Mr. Nagle has
22 asked some questions that we will hopefully try
23 to fully answer in our response, which will mean
24 a discussion with our folks at DNREC, and you may

1 end up being happy with that answer, you may not.
2 If not, we'll have to work through that as well.

3 Mr. Duffy. And then we have a
4 question over here once again.

5 MR. DUFFY: I wanted to confirm what
6 Mr. Nagle said, because you recently drained the
7 water levels at Ted Harvey. That was on the
8 south side of the road. And we could see it.
9 Draining wetlands.

10 When you lower -- recently the water
11 levels were lowered at Ted Harvey during the
12 winter, and it was noticeable. So I just wanted
13 to confirm with Mr. Nagle, so you could see the
14 opposite of the water levels go down. It got
15 dryer at Kitts Hummock.

16 MR. PIORKO: The observation is how
17 they lowered the water levels in the impoundment
18 in the winter, you noticed the difference in any
19 water levels that were inside --

20 MR. DUFFY: But I do have a question.

21 MR. PIORKO: -- the area.

22 MR. DUFFY: This goes back to your
23 map which you also have back here. You have in
24 all this open water north and south of Kitts

1 Hummock, with Thompson pond in the middle, from
2 what I can see, and I'm speaking just of the
3 South Bay ditch. What I don't understand about
4 this is why you would want to channel all of that
5 water by digging a ditch toward the cottages on
6 the South Bay side, so close to that, and not
7 doing any other, so as to move all that water so
8 close to the cottages on South Bay Drive, where
9 now the water might want to go through somebody's
10 house, which happened last spring.

11 MR. PIORKO: Well, to answer your
12 question --

13 MR. DUFFY: It is so close to that.
14 Plus, it is a levee. It is not a ditch. It is a
15 levee. One side is real higher than the other.

16 MR. PIORKO: Let me explain, the
17 amount of material we are taking out of that
18 ditch is a hundred cubic yards of material. It
19 is not very much material. It is to smooth out
20 some of the humps in the ditch profile that water
21 is being trapped behind.

22 We are restoring that ditch profile
23 elevation back to what it was when the ditch was
24 cleaned out down to, down to the outlet

1 structure, down to the tide gate.

2 MR. DUFFY: Will it be like this or
3 will it be like this?

4 MR. PIORKO: Well, you know, Steve
5 and Bob will have to tell you what the profile on
6 it is. You know, it is not like this. There is
7 nowhere in Kitts from top to bottom that's like
8 this. I don't know what the profile grade on it
9 is off the top of my head.

10 MR. ENRIGHT: This young lady was
11 next.

12 MR. DUFFY: That was my question,
13 whether you would channel it all near the houses.

14 MR. PIORKO: It is a very, it is a
15 very minimal amount of clearing out and it is --

16 MR. DUFFY: Because there is water,
17 you got to channel the water between the two
18 impoundments close to the cottages on South Bay.

19 MR. PIORKO: There are other
20 opportunities for draining water from north to
21 south that, as I said earlier, we want to
22 explore, with the possibility of cleaning out or
23 redirecting some of the other grid ditches. But
24 we won't know that until we get a little more

1 information.

2 MR. DUFFY: That was what you were
3 going to do five years ago.

4 MR. PIORKO: I can't tell you what we
5 said we were going to do five years ago. I'm
6 going to tell you what we are looking at doing,
7 you know, six to nine months from now.

8 Bill, let me get this young lady's
9 question first. Your name, please?

10 MS. HUNSICKER: Kelly Hunsicker, 356
11 North Bay Drive. I guess my concern was, you had
12 mentioned that the water levels at the
13 impoundment are to some extent maintained with
14 respect to the waterfowl, and I guess I wanted to
15 ask if the safety of Kitts Hummock will override
16 perhaps the maintenance of particular bird and
17 other wildlife such that if there is a concern
18 that the birds will disappear if we drain this to
19 the level that is necessary to maintain the
20 safety of Kitts Hummock, will Kitts Hummock
21 safety take precedence over that? I guess that
22 was --

23 DR. MEREDITH: That's a public policy
24 decision. But I would think we would be very

1 sympathetic to the residents of Kitts Hummock.

2 There are similar concerns that the
3 Thompsons have with their pond, that Shevak has
4 for his open water. They are private land
5 owners. Okay. They are going to want to manage
6 the lands the way they want. I don't think you
7 probably have as much flexibility in managing
8 them to protect the houses, but with the public
9 resource agency you would have more input.

10 Frank, I just wanted to address
11 before I lose this thought --

12 MR. PIORKO: Yes, sir.

13 DR. MEREDITH: -- why you are looking
14 at South Bay Drive ditch, okay, to bring the
15 water.

16 If you take a look at that photo
17 right there, on either side of the Thompsons'
18 pond there are two other ditches that could serve
19 as conduits, and we worked with the Thompsons,
20 but they have great concern that cleaning any of
21 those ditches for purposes of bringing water
22 through will dewater the pond.

23 And again, we are hamstrung. We have
24 to defer to private property rights, because they

1 did not want us to touch, to clean either of
2 those two ditches. They were all right with
3 cleaning South Bay Drive ditch because it is a
4 little more remote from the pond. They weren't
5 as concerned about dewatering the pond.

6 Again, we are caught with the
7 property rights of a private land owner. We just
8 can't go in there without that person's
9 permission and clean a ditch.

10 MR. PIORKO: Yes, ma'am. Your name
11 again.

12 MS. KEISER: Alice Keiser.

13 MR. PIORKO: Thank you, Mrs. Keiser.

14 MS. KEISER: You had a picture of my
15 home covered with water.

16 MR. PIORKO: Yes, ma'am.

17 A VOICE: It used to not be that way.

18 MS. KEISER: It runs parallel with
19 our property, can't go anywhere because the
20 underground pipe is stopped up. I don't think
21 any of you people would want to live and put your
22 home in danger, and that's what DNREC is doing to
23 me.

24 MR. PIORKO: Okay. I don't --

1 MS. KEISER: Yes, it is DNREC, and it
2 is the state, and if I lose my home, look out.

3 MR. PIORKO: All right. Thank you
4 for sharing that concern with us.

5 Yes.

6 MS. COSTELLO: Carol Costello, 3083
7 Kitts Hummock Road. I guess I don't understand,
8 we have been here since -- we started, well, we
9 built in '01, and I've watched the pond on the
10 Thompsons' property and the water on Mr. Shevak's
11 property, and they have been allowed to continue
12 growing and growing and growing, until they are
13 basically pushing on private land that was
14 adjacent to them.

15 And I don't know if it is because the
16 drainage ditches aren't being drained or if it is
17 because on those properties the private, the
18 private property owners are doing something to
19 keep the water from draining off.

20 But at what point are they not
21 allowed to continue holding that water in and
22 then when we have a situation like we had last
23 May, you know, whatever structures or whatever,
24 it just goes everywhere.

1 But those bodies of water were not
2 that large, and they are being continued to
3 allowed to grow, and I don't know if it has
4 anything to do with, like I say, the private
5 property owners or what. But, obviously, there
6 is not a hole getting larger, you know.

7 But like there is a property on the
8 north end, I'm thinking of that, you know, that
9 we were concerned about. As a matter of fact, it
10 is Mr. Gebert's land. And when we originally
11 looked at that land, the water was over quite
12 aways on Mr. Shevak's property, and now when you
13 go by it is considerably closer to the road,
14 which makes those lands not usable, and that's
15 private property also.

16 So why is this one private property
17 being allowed to gather water to the point that
18 it makes another person's private property not
19 usable? That doesn't make sense.

20 MR. PIORKO: You know, I appreciate
21 your sharing your concern and your observation.
22 As I said earlier tonight, I don't have an answer
23 for you. You know, I don't know how to answer
24 the question of your observation that somebody's

1 property is increasing their marsh area or their
2 open water area to the detriment of a surrounding
3 land owner.

4 I can't say that's true and at this
5 point I can't say that that is not true.

6 I understand there are folks here
7 tonight that are more than willing to share their
8 opinion, you know, on that -- one at a time -- on
9 that matter, and we are happy to hear from you.

10 But I can't give you an answer
11 tonight as to, you know, what the resolution, if
12 any, you know, without a legal interpretation of
13 that would be.

14 You have raised a concern. We have
15 recorded that concern. And you can expect that
16 we are going to answer your concern at some point
17 shortly with an answer hopefully that will make
18 -- excuse me. One at a time. And you wanted to
19 follow up.

20 MS. COSTELLO: It is like if you had
21 an aerial view of say five years ago, ten years
22 ago and you compare it with now, if you see that
23 occurring, is there no, are there no legal
24 repercussions for one person affecting another

1 person's property?

2 MR. PIORKO: There are agencies and
3 laws which govern the additional removal or
4 additional material into waters of both the state
5 and the U.S. And if that's an observation that
6 you have, then we can go back and look at
7 existing aerial photographs.

8 I don't know to what extent we have
9 either a legal authority, obligation or the need
10 to make a determination of an adverse impact.
11 You know, when we get into the discussion of
12 whether that has happened to the detriment of the
13 community, you know, I'm not the person to make
14 that determination.

15 I have, as I said, we have heard your
16 concern. All the concerns tonight are valid ones
17 and ones that I hope we will do our best to try
18 to answer.

19 I'm going to ask for a response from
20 Dave Carter, and then we will go back to Mr.
21 Costello.

22 MR. CARTER: I do want to bring up
23 the issue, we have seen this opening of wetlands
24 up and down the coastline. We are looking at the

1 aerial images, and most of the indications are
2 from the time we initiated that we've had about
3 seven to nine inches of sea level rise from 1929.

4 The reason these areas are beginning
5 to drown is because they are actually dropping
6 down and subsiding and the sea is rising. So a
7 lot of the historic perspective we have for the
8 last 50 or a hundred years, we are going to have
9 to look at some new and innovative options, that
10 will be a mix of things. Improving the drainage
11 from nuisance problems, which is, quite honestly,
12 in my professional opinion, what you could do
13 with this drainage is improve your nuisance
14 flooding problems.

15 We still have a huge coastal storm
16 problem to figure out how to deal with for every
17 one of communities. We are working with Bowers
18 Beach doing that. We are working with Prime Hook
19 Refuge and Broadkill Beach, and in May for the
20 first time that I know of, the Broad Dyke Marsh,
21 all the way in New Castle, is 300 years old, was
22 capped and flooded.

23 So this is a big issue. So be
24 careful, until we have that data, about what is

1 actually behind us. I think we need to come up
2 with some really thoughtful solutions that is
3 going to be a mix of things for all of our
4 coastal communities.

5 Drainage will maybe help a little
6 bit. It will reduce some of your nuisance
7 problems. But I'm not going to stand here --
8 maybe I will after we get the modeling data
9 back -- but I'm not going to stand here and say
10 it will do a whole lot. What it may do after a
11 big coastal storm is get the water out in a
12 couple of days instead of five days. But your
13 carpets are wet.

14 And I'm not going to sit here and
15 sugarcoat anybody when I see what is happening on
16 the coastline. We have got some big issues that
17 we have got to look at hard, and it is going to
18 take everybody really thinking differently from
19 what they have thought about in the past to fix
20 some of these issues.

21 And the sea level is rising.
22 Something you need to start talking about and
23 thinking about. If it doesn't accelerate at all,
24 if it happens at the same rate it has been

1 happening from the data at a foot a century,
2 that's six, seven inches in another 50 years.
3 You guys are pretty low. That's a lot of water.

4 MR. PIORKO: Thank you, Dave. Mr.
5 Costello, you wanted to make a point, and then we
6 will go back here.

7 MR. COSTELLO: Mike Costello. But I
8 have questions. Ted Harvey, how does the water
9 get into Ted Harvey? Does it come in from the
10 St. Jones?

11 A VOICE: Yes.

12 MR. COSTELLO: You guys have a
13 floodgate that allows the water to come into the
14 St. Jones, and that raises the Ted Harvey level.
15 You guys in essence then can control that.

16 A VOICE: Yes.

17 MR. COSTELLO: When I went down and
18 looked at the floodgate, there is a big cylinder
19 thing that closes the pipe. On the night of May
20 11th and 12th was that open or closed?

21 A VOICE: What year?

22 MR. COSTELLO: This year, 2008.

23 (Discussion off the record.)

24 MR. PIORKO: We are trying to get

1 everybody's comments. Mr. Costello, would you
2 make --

3 MR. COSTELLO: Well, my question is:
4 Was the big, was the big lid open or closed the
5 night of the Mother's Day storm last year?

6 MR. PIORKO: If there is somebody
7 that can answer that question we will ask our
8 folks to answer that. If there is no one that
9 can answer that then, you know, as I said
10 earlier, I don't have all the answers tonight.

11 We will try to get the ones that we don't have.

12 MR. COSTELLO: If we don't know, we
13 don't know. That's okay.

14 DR. MEREDITH: No, no. There is
15 somebody in our wildlife section who is the
16 regional manager that could probably answer that.
17 That person is not here tonight.

18 MR. COSTELLO: Where my question is
19 going is, if the water came into the Ted Harvey,
20 did it flow over the levee into Kitts Hummock?
21 And if it did or did not. Do we know? If it
22 did, there should be evidence of it. And if
23 there is evidence of it, where is it?

24 And then if it didn't, then obviously

1 other than leakage there really isn't an issue
2 with Ted Harvey.

3 MR. PIORKO: Okay. Thank you. Is
4 there anyone -- and I will come back and ask for
5 your comment on that again, but I promised this
6 young lady --

7 MS. MCHENRY: My name is Vivian
8 McHenry, 2572 Kitts Hummock Road. I live on the
9 curve right across from Shevak's property. You
10 don't have a picture up there anymore. Maybe if
11 you could go back to the Shevak's property I can
12 probably tell you something. Okay.

13 You see where it comes down and looks
14 like Florida, that's me right there. I have that
15 little pond right there.

16 MR. PIORKO: See if we can blow
17 Florida up a little bit. Not literally, just
18 figuratively.

19 MS. MCHENRY: We don't want to blow
20 Florida up. It is a pretty nice place. It is
21 the Keys. Okay.

22 MR. PIORKO: Okay.

23 MS. MCHENRY: 70, that's me, little
24 pond there. That big pond right across there,

1 last year, not too long after the flood, when it
2 finally, all, everything dried out again, 88 was
3 dry as a bone, and the next morning I got up it
4 was full of water to the road again, and that
5 comes actually to the road and sometimes into the
6 road.

7 I went down the beach a little bit.
8 The three ladies that have that one house that's
9 up on stilts and has wire on the property, they
10 didn't have water that day, now they had it.

11 Is he opening a gate or something and
12 letting water come in? Because dry as a bone
13 cannot fill up overnight unless you have a gate
14 and you are letting water in from somewhere.

15 MR. PIORKO: So your question, if I
16 understand it, is: Does property parcel number
17 88 have any type of gate or structure that
18 manipulates the water level on that parcel?

19 MS. MCHENRY: Yes. Because it was
20 dry for a couple of days, and all of a sudden --
21 it is dry, trust me, it was dry for like a week,
22 and all of a sudden the next day I got up it is
23 full of water up to the road.

24 MR. PIORKO: Okay. And that's a

1 great observation, and that's --

2 MS. MCHENRY: I see that quite often.

3 MR. PIORKO: Let me go to this young
4 lady and we will come back. Yes, ma'am. Name
5 again? I'm sorry.

6 MS. MOFFLER: Linda Moffler, 3010
7 Kitts Hummock Road. I asked about the gates
8 right after the flood, and I was told that the
9 gate could not be opened because it was so full
10 of trash, because the state had not cleaned it
11 out, as per their responsibilities.

12 MR. PIORKO: May I stop you there and
13 ask you first, what gate are we talking about?

14 MS. MOFFLER: Right after the flood
15 last May.

16 MR. PIORKO: Are we talking about the
17 gate at the bottom of South Bay Drive?

18 MS. MOFFLER: Yes.

19 MR. PIORKO: The one that was
20 installed back in 2003? Okay. That, so that
21 everybody understands, the maintenance of that
22 tide gate structure belongs to the Kitts Hummock
23 Improvement Association.

24 MR. COSTELLO: Can I comment?

1 MR. PIORKO: And I'm sure that Dr.
2 Costello would like to comment on that and we
3 would like to hear that.

4 MR. COSTELLO: The maintenance of
5 that gate is the association's responsibility.
6 And we went down and checked the gate two
7 different times during the storm, May 12th and
8 11th, and the gate was working properly. The
9 grates were clean, the water was flowing through.
10 As far as we know, the flapper valve worked as
11 designed. And I don't think that that
12 contributed to anything.

13 MR. PIORKO: Thank you. We had
14 another comment. Yes, sir.

15 MR. MARIANI: My name is Andrew
16 Mariani, 112 North Bay Drive. I own property on
17 north, on the North Bay Drive. And on east and
18 west of the road, the Shevak property on the west
19 side comes up to my property. My property is 300
20 foot deep. When I bought that property it was
21 bone dry. There was no phragmites. And now 250
22 foot of it is under water. And that's how big
23 Shevak's lake got since I bought that property.
24 His lake or his pond, which was the

1 size of this room, the same as the Thompson boys,
2 in 30 years, they're as big as Silver Lake now.
3 His water covers 250 feet of my property. And
4 that's what we are saying. Why are they allowed
5 to let that happen?

6 If you guys can't clean them ditches,
7 is it his responsibility? That's what I'm trying
8 to get. Somebody had to have easements or
9 permission to put them ditches in there.
10 Mosquito control cleaned it all my life. When
11 them ditches were cleaned and we had a drain on
12 the north and the south end, that marsh would dry
13 in the summertime. They wouldn't have ponds in
14 the summertime. I walked them. They were hard
15 as this table. The only time they fill up is
16 when you got rain. But now it is a lake.

17 MR. PIORKO: And I understand two, I
18 think I understand two points that you have tried
19 to make this evening and other conversations
20 we've had.

21 One is the increasing size of the
22 marsh on the Shevak property, and the second
23 point is that, in your opinion, that's related to
24 the ditches not being cleaned out, blocking the

1 flow, and having the marshes enlarged by virtue
2 of trapping the water behind the properties on
3 the north side of Kitts Hummock Road.

4 MR. MARIANI: Right, right.

5 MR. PIORKO: I hear those concerns.
6 I hear your opinion and 30 years of experience.
7 And, you know, that's valuable information to us.
8 I don't have the answers tonight, but, you know,
9 I hear you loud and clear and your concerns are
10 on our radar screen.

11 MR. MARIANI: That's what I'm saying.
12 I can't understand why them ditches can't be
13 cleaned. But that's all it takes to drain water
14 out of them marshes, and if them boys --

15 MR. PIORKO: We are pursuing --

16 MR. MARIANI: -- them boys will still
17 have a hunting pond there. They will have a
18 lake.

19 MR. PIORKO: We are pursuing those
20 options. I hear you, Bob.

21 I think we are going to move on
22 because we might have an impasse as far as your
23 understanding of why we can't do something that,
24 I've got to tell you, we can't do without either

1 their permission or permits. And maybe, maybe
2 with some more discussion I can have you
3 understand a little better to your satisfaction,
4 maybe not. I don't know. But it is worth
5 talking about more.

6 MR. MARIANI: Where can we go to
7 investigate to see if there is easements on that
8 property?

9 MR. PIORKO: Well, I think what you
10 do is you ask us to look at that historically as
11 part of our investigation here, and I don't think
12 that that is out of the question as far as for us
13 to do that.

14 If it turns out to be something that
15 we think is of value and it is not something that
16 is, you know, tremendously onerous or costly, I
17 think that it is worth doing.

18 Yes, sir.

19 MR. IDNURM: Tom Idnurm, I-D-N-U-R-M,
20 2934 Kitts Hummock Road.

21 With the storm last year I lost my
22 house. It is now a vacant lot. And I guess I'm
23 really very disappointed. I came here tonight
24 expecting to hear of a master plan with some

1 thoughts on how you were going to make things
2 better for the Kitts Hummock area. And it really
3 sounds like you just have bits and pieces. It
4 doesn't sound like there has been a lot of
5 research done or, if it has, it really hasn't
6 been conveyed to me.

7 I don't see that this is going to fix
8 anything, cleaning out one ditch and then coming
9 back and maybe cleaning out another one, and then
10 maybe not sure what is happening with the
11 impoundment.

12 I think somebody needs to take a look
13 at the whole big picture, because we are going to
14 have another storm and we are going to be here a
15 year later talking about the same thing that,
16 gee, maybe if we clean out that other ditch that
17 might help. I'm just very disappointed with this
18 whole thing, a year later and it sounds like this
19 is a week after the storm.

20 MR. PIORKO: Okay. I can appreciate
21 your concerns from the timetable. You know, in
22 our perspective, and, again, I speak from the
23 perspective of the drainage program and what we
24 can do, what we can offer as a solution within an

1 acceptable period of time.

2 You know, I can't comprehend your
3 loss and I don't know how to console you there.
4 I can say that, yes, it is a year later and we
5 don't have a comprehensive plan.

6 We have an effort under way to look
7 at improving localized flow of water through the
8 community. We have what I think is a larger
9 vision of looking at the effect of the water
10 levels and the flow of water through the entire
11 area and doing some monitoring to help to look at
12 that.

13 I don't know that anybody, including
14 the individuals associated with the programs, can
15 perhaps, because we haven't sat down -- we have
16 sat down and talked, we haven't sat down with
17 data and looked at it collectively.

18 I don't know that we all realize the
19 enormity of the task in front of us to look at
20 just how many variables there are affecting, you
21 know, your community which is located in a very
22 vulnerable spot.

23 And all I can offer in the way of a
24 time frame is, you know, we persevere, we put a

1 permit application in to clean a hundred yards of
2 material out of a ditch in December, and here it
3 is, if we are lucky, you know, we will be able to
4 engage our folks in Fish & Wildlife to assist us
5 in cleaning out that ditch sometime this summer.

6 So I apologize if the wheels of
7 bureaucracy turn slowly, and they do. But, now,
8 we are not sitting on this issue without trying
9 to reach some important information that will
10 help you all. And that's certainly not our
11 intent.

12 Mr. Nagle, and I think we will go
13 back.

14 MR. NAGLE: Okay. Could I ask a
15 question. Andy and other people have noticed
16 these rising marsh levels over the last 30 years.
17 When was the impoundment levee built on the north
18 end, the north impoundment for Ted Harvey? Was
19 it 30 years ago? Because I have USGS maps in
20 1956 to show that it wasn't there, yet today's
21 maps show it is present.

22 MR. PIORKO: When was it built?

23 MR. NAGLE: Yes.

24 MR. PIORKO: I don't know that off

1 the top of my head. I don't know if --

2 DR. MEREDITH: Late '50s.

3 (Discussion off the record.)

4 MR. PIORKO: We are trying to get the
5 best record of this evening we can. And if late
6 '50s isn't specific enough, we will find out the
7 specific time frame.

8 MR. NAGLE: And the second --

9 MR. PIORKO: Wait a minute. I'll
10 give you, I'll give you that much. We will find
11 out the date that it was built.

12 MR. NAGLE: And as far as I know,
13 going up and down the east, I'll say the
14 coastline of the Delaware bay and river, and the
15 beaches along the Atlantic in Delaware, this is
16 the only impoundment that you have built a levee
17 perpendicular, across the floodplain, behind an
18 existing community, which is Kitts Hummock.

19 When the water came in, and Vivian
20 will tell you, the water came down from the north
21 during the flood of Mother's Day '08, and she
22 stood there and watched it come across the road,
23 and within 20 minutes it was up to her knees.
24 When we rode the boat out --

1 MS. MCHENRY: Two minutes.

2 MR. NAGLE: When we took the boat out
3 that morning, the water level was maintained all
4 the way out until the end of that levee, that
5 whole area was covered with water. When we hit
6 the end of the levee we hit dry land on Kitts
7 Hummock Road. And we didn't get the water out of
8 there until they came in with payloaders and
9 trenched out to the bay at the end of South Bay
10 Drive. Okay.

11 MR. PIORKO: Okay.

12 MR. NAGLE: The pipes weren't
13 working. They were clogged. And that water sat
14 in there for five days.

15 MR. PIORKO: Okay.

16 MR. NAGLE: Nowhere else -- if you
17 want to look at the tide charts in Bowers, it was
18 in and out the next tide. It was only at Kitts
19 Hummock that that water sat there for five days.

20 MR. PIORKO: Okay. Thank you.

21 Yes, sir. And then we will go back
22 to you.

23 MR. CANNAN: Sam Cannan, 200 North
24 Bay. I'm standing here, sitting here listening

1 to what you are saying, and this discussion
2 you've had about, well, I don't know, we haven't
3 done any historical type of research, to me as a
4 reasonable and prudent person, someone looking at
5 this, the whole scope of this, that would be a
6 normal thing that I would do.

7 Why is it that an organization that
8 has all your resources at your disposal wouldn't
9 research the historic data to see exactly what is
10 where and when it started.

11 To me, it is beyond comprehension why
12 you would not do this. And then you stand here
13 and say, well, that's something we certainly
14 could do. Why haven't you done it is the
15 question.

16 These people are losing their homes.
17 The entire north side of North Bay Drive, every
18 lot, 15 feet from the road is under water, I
19 mean, and you say, yeah, we hear you. But the
20 truth is you really don't.

21 Our legislators are here. They have
22 been, not these gentlemen but the ones have been
23 here before and nothing has been done. We are
24 now 30 cars down and seven homes gone and you are

1 still studying.

2 When are you going to have some sort
3 of quantitative answer, at least of what the
4 historical data is so you know where to begin?
5 If you don't know where you started, how the heck
6 can you find out where you are going?

7 MR. PIORKO: And let me ask you what
8 historic data do you suggest that we --

9 MR. CANNAN: First of all --

10 MR. PIORKO: I've listened to you. I
11 would like to finish my question.

12 MR. CANNAN: Certainly, please do.

13 MR. PIORKO: We are trying to get a
14 positive dialogue, and you are suggesting that
15 there is certain historic data that we have not
16 done our due diligence in gathering. I would
17 like to know from you what specifically you feel
18 that is that we have not begun to look at.

19 MR. CANNAN: You certainly could look
20 at the deed easements back a hundred years.

21 MR. PIORKO: Okay.

22 MR. CANNAN: You could certainly look
23 at all the titles in all that time, virtually
24 from your desk, with the access you have.

1 My question is: Why has that not
2 been done? You cannot say positively when
3 something was built when your company, your
4 organization would have had to have been involved
5 in the construction or at least acquiesced to it.

6 MR. PIORKO: Okay.

7 MR. CANNAN: So to stand here and say
8 we have no idea when this was built, why it was
9 built, who built it, for people that are losing
10 their homes is really hard to swallow.

11 MR. PIORKO: Okay.

12 MR. CANNAN: I mean, it is amazing to
13 me, and you say, well, we are observing and
14 studying. All you have to do is drive down North
15 Bay Drive and look to the left, and you will see
16 that every lot, every lot owner is under water.

17 Now, I've been there seven years now,
18 and I used to cut 50, 60 feet back off of the
19 road on the north side. It is not my property.
20 It is my next door neighbors.

21 MR. PIORKO: All right.

22 MR. CANNAN: Now you are not able to
23 cut ten feet.

24 MR. PIORKO: Okay.

1 MR. CANNAN: He we just had a flood
2 warning the night before last. We evacuated our
3 cars again. We are all ready to be evacuated
4 again. And while you are studying basically Rome
5 is burning. You really have to begin to at least
6 look at these things and find out exactly where
7 it is this started.

8 MR. PIORKO: Okay.

9 MR. CANNAN: I think that's a fair
10 question. I mean, to look at the back deeds to
11 find out what easements were where. And all I
12 seem to hear is, well, we are real concerned that
13 we need the permission to go on this person's
14 property when all these other homes are being
15 destroyed, while you wait.

16 MR. PIORKO: I can appreciate your
17 concerns and your perspective and your wanting to
18 know why that wasn't done. If you can appreciate
19 the similar perspective of someone who rings our
20 phones off the hook and says, forget all that
21 nonsense, I know what the answer is, clean out
22 the ditches, because that is the spectrum of
23 responses we have gotten from the community, in
24 addition to numerous other ones, because of the

1 fact that folks' problems and their perceptions
2 and their opinions are as varied as what is
3 happening out there, whether it is through a
4 clogged trash rack on a tide structure or a pipe
5 under a road or overwash of a dune.

6 Those are, you know, those are
7 enormously disparate issues and folks' perception
8 of solutions and what we should be looking at are
9 as widely varied as well, which is one of the
10 reasons why, you know, we don't pick up the phone
11 when someone says you need to do this, okay,
12 let's get out there and do this. This is why we
13 are meeting with the community. This is why I'm
14 standing up in front of, you know, 45 or 50
15 people asking for 45 or 50 folks to give us, you
16 know, their viewpoint.

17 And at some point, maybe not as
18 quickly or maybe not as historically expedient,
19 we have to process that information and develop a
20 plan for moving forward.

21 MR. CANNAN: They have been doing
22 this for over ten years.

23 MR. PIORKO: I have not been.

24 MR. CANNAN: That makes everything

1 okay because you haven't been. But the fact is
2 that DNREC or some entity associated with DNREC
3 has been studying this problem for ten years that
4 I am aware of.

5 MR. PIORKO: Okay.

6 MR. CANNAN: How do you answer that?

7 MR. PIORKO: I don't.

8 MR. CANNAN: You don't live in Kitts
9 Hummock, do you?

10 MR. PIORKO: No, I don't.

11 MR. CANNAN: You don't have a piece
12 of property there, do you?

13 MR. PIORKO: No, no, I don't.

14 MR. CANNAN: So as far as you are
15 concerned, it really doesn't matter what happens
16 at Kitts Hummock. This is an academic exercise.

17 MR. PIORKO: I could not disagree
18 with you more, and I respect your opinion, and I
19 thank you for it.

20 Let's take a five-minute break just
21 to give her a chance to rest for a moment. Folks
22 want to use the restroom. We are going to come
23 back and we will have about another 20 or 25
24 minutes, before they will throw us out of here,

1 to get some other folks to give us their
2 observations and share their views with us.
3 Thank you. Stick around. We will just be a few
4 minutes to take a break.

5 (Recess taken.)

6 MR. PIORKO: Okay. Folks, we have
7 about 15 minutes left, and I will take another
8 comment from this gentleman, and then I would
9 like to maybe hear from a few people that perhaps
10 we haven't heard from yet tonight, that might be
11 helpful before we try to wrap up this evening.
12 Yes, sir.

13 MR. CANNAN: One question. The data
14 that you are going to be collecting relative to
15 the water levels in all these various areas, will
16 that be available on the Internet for anyone to
17 look at?

18 MR. CARTER: Yes, we will put it up
19 there, anyway you want it.

20 MR. CANNAN: Would you mind giving us
21 an address.

22 MR. CARTER: I have to set one up
23 yet. But is it okay if we just post it as an
24 Excel spreadsheets or something?

1 MR. CANNAN: I have no problem. Just
2 make sure Mr. Costello knows where to look so we
3 can see it as it comes in.

4 MR. CARTER: What I would need to do,
5 I want to first talk to my staff, I want to make
6 sure that we have a measure to do quality
7 assurance, quality control, to make sure that
8 there weren't any quirks with it.

9 And then once we go through that and
10 have we what call Metadata that describes it, we
11 will get it to you. We could do that very
12 directly by e-mail. And then as soon as we have
13 it, and then quickly after that we will try and
14 get it up.

15 MR. CANNAN: Would this be digested
16 or raw numbers?

17 DR. MEREDITH: It will be the actual
18 standard elevations, the same as the Bowers tide
19 gate so you can compare it with the tide gate.

20 Probably collect the data about every
21 two weeks, and give us a few days to check for
22 the accuracy of it and get out the obviously bad
23 data, and we will post it.

24 MR. PIORKO: Thank you.

1 MR. CARTER: Everything we collect is
2 public domain. There might be just some time for
3 us getting it out for a couple of weeks.

4 MR. PIORKO: Question in the back.

5 MS. HUNSICKER: As a follow-up
6 question --

7 MR. ENRIGHT: Name?

8 MS. HUNSICKER: Kelly Hunsicker, 356
9 North Bay Drive. You had mentioned that to some
10 extent some of the flooding we are seeing is the
11 result of natural water levels. So would we be
12 able to get some insight as to if the water
13 levels are raising 16 inches, I'm just throwing a
14 number out there, in your scientific opinion,
15 perhaps nine is related to X factor and perhaps
16 three is related to Y factor, so that we --
17 you've acknowledged that perhaps some of the
18 flooding concerns aren't necessarily directly
19 under your power, if you will, so if there is
20 other factors that are driving the flooding,
21 while you can solve 12 inches of it, we still
22 need to solve five more. Would you be able to
23 give us that type?

24 MR. CARTER: I would estimate that's

1 going to be require some extensive hydrodynamic
2 modeling by a professional engineer. And my
3 ballpark figure is going to cost me at least
4 200,000.

5 MR. PIORKO: \$200,000 is a number for
6 perhaps additional modeling that we don't know if
7 we are going to need yet.

8 MR. CARTER: If she wants that
9 detail.

10 MS. HUNSICKER: You wouldn't be able
11 to tell that sort of information from the raw
12 data you are getting?

13 MR. CARTER: No.

14 MR. PIORKO: We hope that with a
15 combination of information we collect, the
16 scientific water level information, the anecdotal
17 information, the field survey, as we put together
18 a better picture of what is happening, including
19 weather information, that we can make some
20 inferences as to some things that we think may be
21 better managed, some things that may be beyond
22 our control, as in mother nature, and it is my
23 hope, anyway, to create a better picture of
24 expectations that folks can expect during certain

1 events based on what we do, what we are able to
2 manage and control.

3 MS. HUNSICKER: I guess I'm focused
4 on the two bodies of water that are behind the
5 homes that are outside of DNREC's control such
6 that to the extent that -- I mean, I know we have
7 visual data that obviously they are encroaching
8 on people's land, but to the extent that we can
9 understand any additional information that you
10 could give us, I think that would be helpful.
11 That's my formal request. To the extent that
12 there is any additional information you discover
13 in your search in your existing plans.

14 MR. CARTER: We won't be able to tell
15 you the difference in elevations at different
16 times --

17 MR. PIORKO: Dave, it is very
18 difficult when she is trying to get what you are
19 talking about.

20 MR. CARTER: I understand exactly
21 why. You are going to have to do modeling with
22 those flows and actually couple that with what is
23 happening on the coastal side with the bay water
24 storm surges, and that's the really complicated

1 part to do.

2 MS. HUNSICKER: Okay.

3 MR. CARTER: I'm telling you that
4 that is probably needed because we can -- what
5 Frank has talked about, and I think Frank can do
6 very effectively, is your nuisance flooding, your
7 drainage back in that bowl area behind, that
8 internal drainage stuff I think you can make some
9 improvements on, but I don't know to the extent
10 that, how much they are going to make a
11 difference when you have a large storm event come
12 in and open it.

13 They may be such a minor difference
14 in your flooding or they may make a big
15 difference. I don't know yet.

16 You are going to have to couple those
17 two different flooding events into one to take a
18 look at this comprehensively.

19 MR. PIORKO: Okay. Thank you.

20 MR. ENRIGHT: This lady is going to
21 lose the blood in your hands.

22 MR. PIORKO: I thought you were going
23 to go over and help her keep it up.

24 MS. MCHENRY: I'll hold it up so I

1 can show you a little bit. All of this is the
2 Shevak water, right.

3 MR. PIORKO: Yes.

4 MS. MCHENRY: Okay. When it flooded
5 it came through the sand place, up there, and it
6 came down, and it got us from over here, came
7 right across here and got us over here.

8 What can be done? I know these guys
9 want these for duck hunting. Duck hunting is
10 only one time a year. This was May. This was
11 filled back up with water.

12 What can we do to keep them -- keep
13 this water down and maybe him keep his water
14 down, and let him put it back in. Obviously, he
15 has control somehow to get water overnight in
16 here when there is no not rain. Excuse my
17 English. There isn't any rain.

18 So what can we do? Because all those
19 properties here are all flooded, right here,
20 because Shevak's water. It is right here on the
21 road, it is right here on the road. And it is
22 not here. It is here. It is on the road right
23 now, because I go across and I can step right
24 down into it. It is already there.

1 When we had the storm the other
2 night, I went to the fire department -- one of my
3 jobs is to check it down there -- and called the
4 chief and let him know what is going on down
5 there. When I went down there -- we did a good
6 job on the South Bay. You did. There is a lot
7 of good sand down there and everything. But the
8 North, it was already up there. And if the wind
9 hadn't changed we would have had a problem.

10 And that's right back up there again.
11 So what can we do to get him to ease his water a
12 little bit? Because when we have that big surge
13 there wasn't as much water in here as there is
14 now. Maybe that would have filled it up and
15 taken it away from us.

16 MR. PIORKO: Well, I don't know. I
17 don't know what we can do to talk to Mr. Shevak
18 about managing his marsh differently.

19 MS. MCHENRY: But he takes -- I'm
20 sorry, but when he takes somebody else's property
21 away, and, as we all know, we not only lost
22 property in that flood, we almost lost three
23 people. That would have been loss of life.

24 A VOICE: The fire fighters.

1 MS. MCHENRY: We almost -- well, our
2 fire fighters, we all work together. I got
3 hypothermia from it and I got all right. But I
4 lost pets. A lot more of us lost pets.

5 My question mostly is, can we have
6 some kind of control on the waters that they are
7 allowed to put on their property, as I was told I
8 can't do anything with my property because it is
9 natural reserve, but yet he can.

10 MR. PIORKO: And I don't know enough
11 about Mr. Shevak's property to be able to tell
12 you whether or not the expansion of his marsh
13 area is something that's been a mechanical
14 manipulation or natural factors or a combination
15 of both.

16 We have been asked tonight by several
17 people to raise that as an issue and a question
18 that folks would like more answers to, and it is
19 certainly something that we would address for
20 you. And with that, that's going to be hopefully
21 part of our answer. Whether it is satisfactory
22 or not remains to be seen.

23 MS. MCHENRY: Please do that. Thank
24 you.

1 MR. PIORKO: Thank you. Last
2 question, and then we are going to wrap up. I
3 know Senator Bushweller wanted to say something
4 for a moment. Let's hear from you again first
5 before we leave.

6 MS. LORD: Cheryl Lord. It is really
7 not a question. I just want to make a statement.
8 We are very anxious, as you can certainly
9 appreciate, because every time the wind is
10 blowing a certain direction, and just like the
11 other night, it was like possible flood warning,
12 and then you are on pins and needles waiting.
13 You move your cars and so forth.

14 So to us, and to back up what you
15 were saying, you know, we are very anxious about
16 the time frame here. However, in my opinion, I
17 think you all are showing more sensitivity to the
18 issue than we have seen in years. And I
19 personally appreciate the fact that you have
20 taken on several occasions the time to meet with
21 us, talk with us and listen to us, along with our
22 representatives who have done the same thing.

23 So, you know, I'm not speaking for
24 everybody in the room, but I'm speaking for

1 myself. I would like to see things move more
2 quickly, I wish they could, because we are
3 getting very anxious. We are very anxious down
4 there. But I appreciate the fact and I think you
5 are listening to us, and I know to some extent
6 your hands are tied.

7 MR. PIORKO: Well, I appreciate that,
8 and we are listening. I don't know that our
9 hands are specifically tied as much as, you know,
10 we can only move so quickly on things and,
11 believe me, we have our own folks at DNREC and
12 our legislators too who would like to see us, I'm
13 sure, move faster. And we are going to try to
14 accommodate as many people simultaneously as our
15 resources allows us to permit.

16 Speaking of resources, we will have
17 one more quick question or comment and then
18 Senator Bushweller is going to say something.

19 MS. NISSAN: Vern Nissan, 316 North
20 Bay Drive. Just a couple of questions. I just
21 wanted to make a statement that it is a complex,
22 multi-watered coastal situation that has
23 occurred. But I would like to know if DNREC,
24 with the drainage, could somehow get DelDOT to

1 clean the culvert under the road, or how you can
2 work in association with them. And I know that
3 that might be a difficult issue.

4 And I wanted to know the name
5 possibly of the dike manager at Ted Harvey, just
6 so that we could, you know, perhaps speak with
7 him.

8 DR. MEREDITH: Wayne Lehman. Call
9 the wildlife section office in Dover. And his
10 boss is Greg Moore. Get up with Greg and Greg
11 will make sure Wayne gets back to you.

12 MS. NISSAN: Great. Thank you so
13 much.

14 MR. PIORKO: From my perspective as
15 far as DelDOT goes, I don't think DelDOT has done
16 or not done anything that's been asked of them.
17 I think their contention has been that the
18 culverts under the road are clear for the most
19 part, and that we are looking at a situation
20 where the water under, on both sides of the pipe
21 is at the same level.

22 If we were to determine that the
23 culverts -- and, Bob, you've had more interaction
24 with DelDOT on this issue. But if the pipes were

1 deemed to be blocked up, I'm sure that DelDOT
2 would do what they need to do to maintain them.
3 We will certainly look again at that particular
4 issue.

5 MS. NISSAN: I just hope they don't
6 block up.

7 MR. ENRIGHT: They are blocked with
8 water.

9 MS. NISSAN: That's also blocking.

10 MR. PIORKO: Senator, I'm going to
11 turn the floor over to you.

12 SENATOR BUSHWELLER: I'm not going to
13 make a big speech. I wanted to say a couple
14 things.

15 First of all, I want to thank the
16 people from DNREC, all the staff from DNREC who
17 are here tonight. I've only been involved in
18 this since maybe last summer, but since I've been
19 involved the DNREC folks have been extremely
20 helpful, and I appreciate it.

21 I wanted to make three quick points.
22 There were very significant points made tonight
23 first about the Shevak property, and I would
24 request and would be willing to work with DNREC

1 officials and anybody else to make sure that we
2 are able, in fact, to find out whether, in fact,
3 there were any changes made or ongoing changes,
4 improvements or whatever to that property that
5 are affecting the drainage situation in Kitts.

6 I don't know whether there are or
7 not. Therefore, I'm not going to make any
8 accusations. All I'm saying is I think that's
9 something we should know. We have a
10 right to know, and, therefore, we ought to find
11 that out.

12 Secondly, there are also good points
13 made about the north impoundment dike at Ted
14 Harvey, and, again, I don't have a clue whether
15 what they do with the water level and so forth at
16 Ted Harvey are affecting the drainage problem in
17 Kitts Hummock, but I believe we have a
18 right to know that. And so that's another aspect
19 I think we should look into.

20 Third, sort of a little bit out in
21 left field, I realize that tonight was not a
22 night to talk about beach erosion, and I realize
23 too that part of the beach erosion question
24 relates to the drainage issue. I mean, these are

1 not totally separate issues.

2 But my point will be that I look
3 forward to hearing from both DNREC and from the
4 Army Corps of Engineers about that beach tour we
5 took that day and saw these overwash areas and
6 that sort of thing, because I think that's part
7 of the solution to this whole problem.

8 The last thing I'll say is even
9 though I've only been involved since the summer
10 of last year, I thoroughly understand the
11 frustration that so many residents feel, though,
12 because no matter what the reason may be, the
13 fact of the matter is this has been a developing
14 problem for a long time, and so that frustration
15 is very easy to understand.

16 The one request I would make of DNREC
17 in that regard is, and I know how tough this is,
18 but it would make all of us feel better to the
19 extent that we could start to attach timelines to
20 the kinds of activities we have going on.

21 These are good activities we have
22 going on, necessary activities. As I said to Mr.
23 Butler during the break, the activity that's
24 going on right now has to do with really what the

1 ultimate question we are all concerned about is,
2 and that is how can we fix this problem.

3 There is a lot of history and stuff,
4 but that's the real question we are faced with
5 today, how can we fix this problem. And I know
6 how tough it is sometimes to put timelines on
7 this stuff. But to the extent we are able to do
8 that, even if we have a timeline where then
9 somebody comes and says, well, we thought we
10 could do it by this date, but it has changed, at
11 least we have an idea of what is going to happen
12 and how long it is going to take.

13 So that's all I have to say. But I
14 think this has been a good meeting tonight.

15 MR. PIORKO: Very good. Since it is
16 the fourth time you've asked me about a timeline,
17 I think probably within a relatively short
18 timeline we will try to look at the various
19 elements and put them together with some sort of
20 continuum of activity and share that with you, as
21 well as everyone else.

22 Thank you for your time this evening,
23 folks, drive careful.

24 (Proceedings conclude at 8:00 p.m.)

State of Delaware)
)
 New Castle County)

CERTIFICATE OF REPORTER

I, Eleanor J. Schwandt, Registered
 Merit Reporter and Notary Public, do hereby
 certify that the foregoing record, pages 1 to 96
 inclusive, is a true and accurate transcript of
 my stenographic notes taken on May 28, 2009, in
 the above-captioned matter.

IN WITNESS WHEREOF, I have hereunto
 set my hand and seal this 2nd day of June, 2009,
 at Wilmington.

Eleanor J. Schwandt


